MEMORIAL

OF

THE AUCTIONEERS

OF THE

CITY OF NEW YORK.

JANUARY 3, 1821.

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MEMORIAL.

To the Honorable the Senate and House of Representatives of the United States in Congress assembled:

The Memorial of the Subscribers, Auctioneers of the city of New York,

RESPECTFULLY SHEWETH:

That your memorialists are engaged in an extensive business, whose general influence upon other branches of trade has of late become a subject of much controversy. Your honorable bodies were, at your last session, petitioned, by those who consider the interests of commerce as unfavorably affected by the great extent of auction sales, to adopt such restrictive measures, as would tend to limit or suppress them. On the failure of the effort at that time, no means were left unattempted, by which the discordant interests of the different classes of the community might be united in furtherance of this enterprize, and the application is now renewed, supported by more powerful influence, and urged with greater zeal.

Your memorialists respectfully disclaim the intention of urging their unimportant interests upon the attention of your honorable bodies: their remonstrance is grounded upon principles distinct from any motives of private consideration, which they are aware would have but little influence on your decision. Their object in addressing you, is to give such practical information as will lead to a just estimate of the nature of their business, and correct the misconceptions that may have prejudiced the inquiry. The result of your deliberations on this important subject will materially affect the whole course of trade. A system, which has gradually grown into importance—which has been improved, matured, and, they might almost say, perfected—which necessity originated, and acknowledged advantages have continued and enlarged, will be established as a safe and salutary medium of sale, or suppressed as a dangerous and pernicious agency. Your memorialists cheerfully submit their interests to the decision of your honorable bodies on the merits of this question, and would humbly suggest, whether a subject of this moment should not be approached with respect and delicacy; whether it does not merit the most careful deliberation, and whether the argument and evidence that involve the interests of the whole should not outweigh the clamors of a few.

Your memorialists respectfully request the indulgent attention of your honorable bodies to a brief exposition of the general nature of their business, and of their manner of conducting it; (and to the correctness of their representations they pledge their individual and collective respectability.)

Your honorable bodies will perceive, from this detail of their general practice, that there is nothing to warrant the charges of fraud and deception, which have been urged against sales at auction, and that, in yielding to popular impressions, derived from the objectionable mode of conducting the business which formerly prevailed, the opponents of the trade must have overlooked its actual importance and respectability. Were evidence necessary to disprove these calumnies, it would be found in the unlimited confidence reposed in your memorialists, and the slightest investigation would have corrected a position at variance with the very nature of the business.

Your memorialists, in the statement offered to your honorable bodies, have confined themselves to that branch of the trade which has been represented as productive of the most extensive injury—that is, the public sale of imported dry goods. Other commodities of every kind are sold under similar regulations; it would be obtrusive upon your patience to particularize each.

Sales of dry goods are made at auction by the package or by the piece, and this is the only important distinction to be observed in all the variety of the trade. Package sales being more important in amount, and more attractive by the assortments of merchandise they combine, excite most interest, and are attended with greatest competition. When the sale is of magnitude, it is generally advertised in the principal commercial cities, with an enumeration of the articles to be sold. Printed catalogues are prepared, specifying the term of credit, with the other conditions of sale, and detailing the contents of each package, the number of pieces, the varieties of quality, by number or otherwise, and the lengths, all of which are guaranteed to the purchasers. The widths are also, in some instances, specified, but always with a reservation expressed in the conditions of the sale on the printed catalogues, or published by verbal explanation, that there is on that point no warrantee, except that the goods not exhibited shall correspond in this, as well as in every other respect, with the samples shown. This exception is made to the general guarantee to the purchaser, as well to protect the seller from arbitrary and unreasonable claims, as to establish the general rule, that no description of width can be depended upon with as much security as the evidence of actual observation; it being well understood, that British cotton goods are universally invoiced at more than their actual width, whether they are of the finest or most inferior quality, put up for public or private sale. The misrepresentation has become sanctioned by universal practice, and is innocent because notorious. It is no more supposed that goods invoiced as 6-4 of a yard, and measuring but a yard, will produce more in consequence of the exaggeration, than that the United States' duty will be calculated by the custom-house on the invoice width, rather than the actual measurement.

The packages are arranged in lots, corresponding with their numbers on the catalogue, and are exhibited, sometimes two entire days before the sale, sometimes but one: the length of the exhibition being

regulated by the magnitude of the sale. When the goods are prepared for inspection, the purchasers are invited, by a public notice in the papers, to examine them. Where it is necessary for an advantageous examination, whole packages are opened and displayed; where it can be made with more convenience from samples, one or more pieces of each quality is exhibited; and where there are many packages exactly corresponding, one only is shewn. Pattern cards are exhibited, displaying the assortment of colors, &c. The purchaser receives every information and facility that can contribute to his convenience and protect him from mistake. The goods are arranged with so much attention to the accommodation of the purchasers, that three or four hundred packages may be examined with care and accuracy in one day. On the day of sale the purchasers assemble, each prepared with a catalogue, marked with his estimate of the value of the articles wanted; a practice that not only guards the buyer against any disadvantageous excitement which competition naturally produces, and refers him to the deliberate opinion formed upon careful examination before the sale, but also promotes a general knowledge of merchandise in every variety, and creates a useful register of the fluctuations of the market, as these catalogues are generally preserved, with notes in the margin, of the prices at which every article has been sold. At the commencement of the sale, the conditions are recapitulated by the auctioneer, among which it is a provision, that no allowance will be made for damage or deficiency after the goods have left the city; a regulation at once equitable and necessary, as otherwise there would be no protection for the auctioneer in the settlement of his accounts, or for the seller against the fraudulent claims of strangers. This being, however, at all times a declared condition, the publicity of the rule ensures the prompt examination of the goods. All merchandise sold at public auction is warranted by the auctioneer to be perfect in the manufacture, free from damage and imperfection, of the quantity specified, and of fair and merchantable character, as regards the description of width and size: for this the auctioneer is held liable, as well as for every delusion calculated to deceive the senses or betray the judgment. The auctioneer is not only legally and by common practice responsible for the correctness of his merchandise, but it is deemed a point of honor and of common justice to expose every art by which the interests of the purchaser would be sacrificed: and it is no uncommon thing for the buyer to acquire the first information of fraud from the auctioneer himself. This security to the purchaser is, however, necessarily subject to limitation, and public notice is always given, that claims of all kinds must be made within a specified period. Immediate redress is obtained for deficiencies and damages reported within that time.

The deficiencies being properly certified, are promptly allowed. The damages are settled by return of the goods, or by the appraisement of disinterested persons, appointed by the auctioneer and the purchaser. The period established for the required report of claims

is a matter of convention between the auctioneer and the buyers at the sale, it being, however, understood, that errors of all kinds, which arise from the neglect or inaccuracy of the seller or his agent, will at any time be corrected.

The nature of this business, by which sales are effected and accounts closed with so much despatch, absolutely requires that the stipulations specified should be rigidly enforced, and those regulations cannot be deemed disadvantageous, by which care, punctuality, and promptitude, are promoted.

Your memorialists have entered into a more particular detail of this part of their system, because the frauds of British agents and others are alleged as the prominent objection against auction sales.

Practical evidence is not wanting that imposition is most effectually guarded against by the very means which it is said encourage and promote it. The average amount of deductions made from package sales of British dry goods, for claims of every nature, will not equal the sixteenth of one per cent. and it is rarely that any other causes of complaint occur, than an accidental deficiency or an unavoidable damage. Claims based upon the suspicion or the discovery of fraud, are so unusual, and would tend so much to the discredit of the proprietor of the goods, that many, if not all of your memorialists would esteem it sufficient grounds to decline the transaction of further business with the person attempting the deceit. Your honorable bodies will perceive, from this simple statement, how groundless is the charge against auction sales, of encouraging deception, and that the evil which is made the basis of all the objections against them, is but imaginary. Your memorialists have detailed every part of their practice in the management of package sales, which can be of any importance in establishing a correct understanding of the nature of their business. Piece sales are conducted on the same general principles, but differ in many particulars. Package sales are resorted to when entire cargoes are to be sold, or where the quantity of goods is too great to be disposed of in detail. Large assortments of merchandise are daily offered at the piece sales, where packages are opened and the goods sold in small or large lots, as may most tend to the interest of the seller, and the convenience of the purchaser; these sales are regular and systematic, being held by each auctioneer of extensive business on two or more specific days in each week, and are principally depended upon by the retailers, as well as the larger dealers for their uniform supplies: they are held under the same implied regulations which govern sales by the package. Every article is opened and exhibited on shelves on the morning of the sale. A sample piece of every package, as it is offered by the auctioneer, is displayed upon a counter for examination, and several others distributed among the company in the original folds; the rest of the package, if of similar quality, is sold in order, but the same process takes place whenever any difference in value exists, or where the accommodation of the purchasers makes it necessary. Ample time is given during the sale

to examine accurately every article as it is offered, and the purchaser, in every respect is secured against error and imposition, by an open and unlimited display of the merchandise, and by the public proclamation of every circumstance known to the auctioneer, which may tend to enhance or depreciate its value. Where concealment has been used by the proprietor of the goods, it is necessarily detected in their free exposure to inspection. Articles imported, of a specific length, which are sold by the piece, are guaranteed of the usual length. By these means the purchaser has the double advantage of being allowed, in the first instance to examine minutely, and of afterwards being relieved if he has been unwarily deceived.

It is a general regulation, that claims for deductions must be made the day after the sale; but they are generally allowed, if notice is given before the settlement; these precautions operate only upon obvious damage, or upon deficiencies which are evident or might with ease have been ascertained; they are intended to guard against the neglect of the purchaser, not to protect the frauds of the seller. In cases where it can be satisfactorily proved that goods have been put up with intent to deceive, no exertion is wanting on the part of the auctioneer to remedy any injury sustained in consequence.

A credit of three, four, or six months is usually given on sales by the piece, where the amount purchased exceeds one hundred dollars, and approved security is always required by the auctioneer. Legal interest is allowed for cash payments, and men of limited means, by a combination of their purchases, secure the credit which is at all times convenient and frequently necessary; their united responsibility being admitted for amounts, for which either individual would not be accepted. When it is considered that these transactions take place daily, and that the supplies so obtained are essential to the support of numerous inferior establishments, the importance and value of the accommodation will be evident.

Your memorialists respectfully represent that the system of public sales, in theory combining advantages and facilities which establish its utility in extensive markets, is attended in practice with that dispatch, accuracy, and convenience, which alone have extended its operations and confirmed its necessity. It has been long the honorable distinction of our commercial transactions, that frauds on the revenue are scarcely known; it cannot be doubted that auction sales have had an influence in establishing the character for mercantile purity, inasmuch as they encourage so strict and impartial an examination of all imported merchandise, that if imposition should elude the vigilance of custom house officers, it cannot escape the industrious observation of a trading community, which is ever watchful to detect fraud, and prompt in proclaiming it. Let not then auction sales be charged with the encouragement of a species of iniquity, which does not in truth exist, and which it is at least presumable they have had an influence in suppressing.

As the public revenue is guarded from injury by the intervention of auction sales, so also do the purchaser and consumer obtain, through this impartial medium, undoubted assurance of the security of their transactions: no artful mode of exhibition can be used to ensnare the inexperienced: the examination of goods is deliberate and cautious, and it is fully in the power of the buyer to protect himself against the possibility of error. He deals not, as in private contract, with one whose interest it is to deceive; his bargain is made with an unbiassed agent, whose interest it is to oppose deception, and in all cases of injury he looks for redress from a disinterested source. Goods of an inferior quality, of cheap and temporary dye, of specious appearance and slight fabric, may be collected and exhibited as evidences of deception encouraged by auction sales. Your memorialists respectfully represent, that the evidence submitted by them to your honourable bodies must (if admitted as correct) be conclusive, that merchandise exhibited for public sale, cannot be estimated otherwise than at its actual value, or, if its apparent value be heightened by artifical means, that the responsibility of the auctioneer is pledged for the exposure of the artifice. What is it then that encourages the introduction into our market of articles of worthless fabric? undoubtedly it must be their currency with the consumer, who has no immediate and direct dealings with the auctioneer, but obtains them from the jobber, who, himself perfectly aware of their intrinsic value, promotes their importation by being the principal agent in their distribution. Your memorialists do not by any means intend to repel this charge, by the imputation of unworthy motives to any other class of men; they are of opinion that goods of inferior fabric are necessary for the consumption of the country: and that the prices at which they are sold universally correspond with their value. The dressing, the glazing, and decorations employed in the preparation of inferior British manufactures for this and other markets, are so notorious, that they do not deceive the most inexperienced. These are not new inventions, nor have the humbler classes of the community but lately learned to clothe themselves in articles of cheap but shewy fabric. The custom, however, is falling into disuse, and a taste for more simple and substantial merchandise begins to prevail. As far as regards the employment of fraud in the sale of goods through the medium of auctions, it presents itself so rarely to the observation of your memorialists that they cannot but doubt its prevalence, and would rather from their experience esteem it a matter of congratulation that the country merchant can come into the market in the confidence of ascertained good faith and fairness, than believe there can be reason to call either in question.

Your memorialists respectfully represent, that the periodical exposure of large and general assortments of merchandise at public sale must have a tendency to promote the convenience of those who resort to the great commercial marts for their supplies, while it benefits the importer by the consequent increase of competition. If

distant purchasers are attracted by public notice to large and valuable sales where they may carefully examine the assortments that are offered, effect their purchases, and accomplish all their business in so short a period; if the holders of goods may with so much dispatch and certainty complete the sale of whole invoices at the current market prices, with full protection against all risk, and secure the advantages of prompt remittances, accommodations and benefits must result that would at least counterbalance many evils, if indeed the existence of any had been proved. When new plans or principles are suggested, encouraged, and established, when men of different interests and views coincide in their adoption, when, after long and successful experiment, they are confirmed and become universal, it is a common and reasonable inference that their popularity is the result of admitted utility. On what other reasoning can it be explained that, with a powerful interest in opposition, auctions have become in most of our commercial cities so considerable a medium of sale, that both classes of the mercantile community, the buyers and sellers, have united in supporting them? There can be no doubt that when public convenience no longer requires their interference, they will naturally and rapidly decline without legislative interposition.

To those whose operations are conducted on an humble scale, the amount of whose purchases must necessarily be regulated by their daily sales, the suppression of auctions would be a fatal and distressing blow. This numerous class is dependent on public sales for their regular assortments, their responsibility, though not adequate to purchases of magnitude, is yet sufficient by mutual union and support for their small but frequent obligations: having an established credit, they are assisted in the advantageous employment of their small capital, while their intercourse with the auctioneer gives him that constant information, which is his best security, and insures the prudence of their engagements. In common with the country merchant, they owe to auctions the advantage of procuring their supplies without the necessity of intermediate profits, which are evidently a tax upon the consumer: they buy their goods at auction, and the 15 or 20 per cent. which would have formed the profits of an intervening class, is saved to that part of the population by whom the difference would be most sensibly felt. The country merchants go into the market on the best terms. The labour and difficulty of their purchases is reduced; they select from the daily assortments their necessary and regular supply, in quantities to suit their convenience. The price of commodities is equalized between the city and country consumer and reduced to both; and the country gains in the saving of the time, the industry, and resources, of her most valuable citizens. But, it is not only in their immediate advantages, that auctions are a public benefit: the influence of the great body of strangers, invited by their facilities, is profitably felt in every department of useful industry, and imparts activity and animation to every branch of trade. If then the population of the country is, through auctions, supplied with comforts

and necessaries at the cheapest rate; if a saving be effected in the most valuable resources of the nation, of what moment is it that a wealthy and influential class of men, who are provoked to hostility by the loss of a productive business, denounce auctions as a public calamity and influence others to unite with them?

Your memorialists respectfully represent that to the influence of auction sales our domestic manufactures owe their introduction to general notice, and that encouragement and aid, which has in some measure overcome the prejudices that opposed their advancement. That the valuable products of native industry which public opinion discouraged and condemned were forced into use and estimation. To the manufacturer the aid of the auction business as a medium of sale is almost indispensable: a law of our State has been obtained for their encouragement, by which the sale of domestic goods has been exempted from duty: and the great disproportion in amount between the public and private sale of our home manufactures, sufficiently disproves the supposition that auctions operate to their disadvantage. Those manufacturing establishments whose operations are sustained by great resources, may perhaps view with indifference the decision of this question; but to those of humbler means, whose business is almost exclusively transacted through the agency of auctioneers, it is of vast importance. The small resources that would be quickly exhausted in limited enterprize, are by the aid of auctions continued in active circulation. The distress consequent upon the failure of employment, during the tedious disposal of the merchandise and collection of the proceeds, is prevented by the promptitude of the sale and payments. The manufacturer is aided by the judgment and experience of his agent, which renders his presence and attendance unnecessary: so that his goods are sold, the raw material purchased or his funds remitted, while there is no interruption to his industry, and the time and labour are saved which would be consumed by making sales of his merchandise in detail.

It is objected against auction sales, that they have produced a revolution in the commerce of the country and originated the difficulties which it is said now oppress it. Your memorialists would respectfully urge that the decline of business may be attributed to more probable and evident causes than the extension of auction sales, which has in fact resulted from the same circumstances that produced the decline in our commercial prosperity, and has tended greatly to relieve the general distress. It is to the extravagant introduction of foreign fabrics after the late war, when profitable sales allured to importations, far exceeding the ordinary consumption: to the fall in the cost of goods abroad, when our merchants were overburthened with a heavy stock, to the injudicious extension of business at a period of hazard and uncertainty: to the loss of several important and profitable branches of trade which employed our ships and seamen, and enriched our merchants and our country, but of which the universal restoration of peace throughout Europe deprived us: to the extensive scale on which the precarious experiment of domestic manufactures

was commenced, and to the embarrassments of a disordered exchange, that commercial distress is to be referred: and practical men are aware that the interference of auction sales alone could have prevented a more extensive ruin, by their forced distribution of goods throughout the country at a rate which relieved our importers though at an admitted sacrifice. Such were the causes which produced the gradual decline of our commercial prosperity and created that reaction in our mercantile situation from whose shock we are but now recovering. But, on what grounds can it be urged that the present character of our trade is ruinous? The day of commercial disaster has passed away with the extravagant enterprize that produced it, and commerce reviving, asks but freedom from restraint and liberty of action. A safe and advantageous internal trade employs the capital and industry of one part of the mercantile community, while our foreign intercourse, established upon secure and beneficial principles, invites the enterprize of the other. The mass of old goods, the surplus of former excessive importations, has been disposed of, and a field opened for a lucrative trade. Commercial credit and confidence are established, and though our own produce but scantily rewards the labour of the husbandman (an evil certainly not attributable to auction sales) yet foreign manufactures and produce generally have fallen proportionably, while the improvement of our domestic exchanges denotes a composed and settled state of things. Our importers have during the last season enjoyed a trade that has well rewarded their enterprize. Our market has been enlivened by strangers from every quarter of the Union, and presented a scene of activity and successful industry that sufficiently relieves auctions from the charge of having effected a "ruinous change in the character of our trade."

Your memorialists are represented as holding an important and dangerous monopoly. On the contrary, it is their influence in destroying the power of monopolizing, that renders them of public service. They are a barrier to that inordinate warmth of speculation, which is in direct opposition to the principles of a secure and moderate trade: they prevent the involvement of capital in the attempt to engross scarce and desirable articles and those ruinous combinations of extensive dealers which frequently distress a whole community.

From these considerations your memorialists respectfully remonstrate against the imposition of legislative restrictions upon a business whose advantages have been carefully thrown into the shade, while none but groundless objections have been urged against it. Public sales, in their general character, are no longer the resort of the necessitous, who are compelled to the sacrifice of property by the pressure of distress. Buyer and seller now meet on neutral ground for their mutual advantage. Auctions are employed as the most secure and convenient medium for the sale and purchase of merchandise at the current market rate, and any addition to the present charges, however trifling, so far from being a productive source of public revenue, would force the business into another channel, introduce the practice of selling inconsiderable samples at auction, by which the

prices of large parcels at private sale would be regulated, encourage frauds on the revenue, and operate directly as a tax upon the yeomanry of the country.

All which is respectfully submitted. And your memorialists, &c.

Hoffman, Glass, & Co.
J. & P. Hone, & Co.
Boggs, Thompson, & Co.
Irving, Smith & Holly.
David Dunham, & Co.
Samuel Paxton.
C. & G. Bartow, & Co.
Hicks, Lawrence, & Co.
Laurence & Willard.
Robert McMennomy.
Charles Byrne.
James Seton.
Oliver G. Kane.
E. Burrill.
John T. Boyd.
Franklin & Minturn.
Leggett, Shotwell, & Co.
J. Heard.
P. L. Mills, & Co.
James Bleecker.
C. G. Fontaine.
McCarty & Van Antwerp.
W. F. Pell, & Co.
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